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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA :

v. :

Civil Case No. 09-CV-01274

Crim. Case 2:04-CR-00119-1- KJD

IRWIN SCHIFF,

Defendant-Movant.

ORDER GRANTING CERTIFICATE OF APPEALABILITY

On November 9, 2012, the defendant, Irwin Schiff, moved this Court pursuant to 28 U.S.C. § 2253(c)(1), Fed.R.Gov. § 2255 Proc. 11(a), and LR 702 for a certificate of appealability permitting him to appeal this Court's Order dated September 21, 2012 (RE 616), denying the defendant-movant's motion to vacate (RE 600). This Court having considered the motion, and good cause appearing,

IT IS ORDERED that the motion is **GRANTED**. A Certificate of Appealability is hereby granted giving the defendant permission to raise the following issue on appeal:

Does the existing record demonstrate that the appellant was deprived of his Sixth Amendment right to the effective assistance of counsel when his attorney failed to raise one or both of the following issues on direct appeal:

- a. Did the District Court commit plain error when it granted the government's motion to exclude evidence of Mr. Schiff's bipolar disorder?
- b. Did the District Court err when it excluded evidence proffered by the defendant in support of his willfulness defense?

DATED this 19 day of December, 2012.



Kent J. Dawson
United States District Judge